

Department of Child Support Services

Barnes Notice Rulemaking

R-19-02-E

FINDING OF EMERGENCY

The basis for emergency adoption of these regulations is as follows:

Family Code Section 17306(e)(2) states in relevant part:

“The department may adopt regulations to implement this division in accordance with the Administrative Procedure Act. The adoption of any emergency regulation filed with the Office of Administrative Law on or before January 1, 2003, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare. These emergency regulations shall remain in effect for no more than 180 days.”

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW:

Federal law at 42 United States Code, Section 654, paragraph (5) provides, in part, that in any case in which support payments are collected for individuals who have assigned support rights for children receiving assistance under Title IV-A, (California Work Opportunity and Responsibility to Kids (CalWORKs) program), Title IV-E, (Foster Care), and Title XIX, (Medi-Cal), the individual will be notified on a monthly basis of the amount of the support payments collected.

Federal regulation at 45 Code of Federal Regulations, Section 302.54, provides, in part, that a State plan shall have in effect procedures for issuing monthly notices of the amount of support payments collected to individuals who have assigned support rights for children receiving assistance. The monthly notice must list separately payments collected from each noncustodial parent when more than one noncustodial parent owes support to the family, and must indicate the amount of current support collected and the amount of arrearages collected and the amount of support collected which was paid to the family.

State law at Family Code Section 17401.5, requires, in part, the local child support agency to provide notice of, and information about, the child support services hearings available in any regularly issued notices to noncustodial parents.

Barnes v. Anderson et al., First Amended Permanent Injunction and Judgment, NO. CIV S-90-0579, filed December 14, 1998, filed with the United States District Court for the

Eastern District of California, requires, in part, the issuance of notices to both families receiving cash public assistance and families not receiving cash public assistance when there is either a collection or distribution of support during the period covered by the notice. The Permanent Injunction and Judgment also stipulates various data elements to be included in the notice and the timeframe for issuance of the notice.

These emergency regulations interpret, make specific, or implement the state and federal laws and regulations cited above and make the following changes to Title 22, California Code of Regulations:

Chapter 9. Collection and Distribution of Child Support.

Article 5. General Requirements.

- Section 119184 was adopted to specify the requirements for issuing the monthly statement of collections and distribution of support payments and information sheet to custodial parties. This section was also adopted to specify the forms that are to be used in the issuance of the monthly statement of collections and distribution of support payments and information sheet to custodial parties.

These regulations establish requirements for, and incorporate by reference, the following forms:

1. "Monthly Statement of Collections and Distribution," CS 916, dated (03/02).
2. "Notice of Important Information," CS 917, dated (03/02).

Manual of Policies and Procedures (MPP) Section 12-225.3 has been repealed because the regulatory provisions previously contained in that section have been modified and relocated to 22 CCR Section 119184.

AUTHORITY: Sections 17306, 17310 and 17312, of the Family Code.

REFERENCE: Sections 17306 and 17401.5, Family Code; 42 USC Section 654; 45 CFR Section 302.54; Barnes v. Anderson et al., First Amended Permanent Injunction and Judgment, NO. CIV S-90-0579, filed December 14, 1998 (United States District Court for the Eastern District of California).

FISCAL IMPACT ESTIMATE:

- A. Fiscal Effect on Local Government: None.
- B. Cost or Savings to any State Agency: None.
- C. Cost or Savings in Federal Funding to the State: None.
- D. Other Nondiscretionary Costs or Savings Imposed on Local Agencies: None.

LOCAL MANDATE DETERMINATION:

The Department has determined that the regulations would not impose a mandate on local agencies or school districts.

ALL COST IMPACTS KNOWN TO THE DEPARTMENT AT THE TIME THE EMERGENCY ACTION WAS SUBMITTED TO THE OFFICE OF ADMINISTRATIVE LAW THAT A REPRESENTATIVE PRIVATE PERSON OR BUSINESS WOULD NECESSARILY INCUR IN REASONABLE COMPLIANCE WITH THE PROPOSED ACTION:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. These regulations make technical clarifying changes moving existing requirements from the Dept. of Social Services' Manual of Policies and Procedures to the new Dept. of Child Support Services regulations located in 22 CCR, Division 13.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would not affect small businesses. Small business would not be required to comply with or enforce these regulations nor are they expected to incur either benefits or detriments from them.

IMPACT ON HOUSING COSTS:

The Department has determined that the regulations will have no impact on housing costs.

(1) Adopt Article 4, and Section 119184 to read as follows:

Chapter 9. Collection and Distribution of Child Support.

Article 4. Notices.

Section 119184. Monthly Statement of Collections and Distribution and Important Information Sheet.

(a) Each local child support agency shall issue a "Monthly Statement of Collections and Distribution", CS 916, dated (03/02), and "Notice of Important Information", CS 917, dated (03/02), each incorporated by reference herein, to each custodial party who is a recipient of child support services. The statement shall include, but not be limited to, the information required by Title IV-D of the Social Security Act, federal regulation, and the First Amended Permanent Injunction and Judgment, filed with the United States District Court, Eastern District of California, in the case of Barnes v. Anderson, Case No. CIV- S-90-0579.

(b) The statement specified in (a), above, shall be sent to all custodial parties within 45 days from the end of the statement period when there is either a collection or distribution of support during the period covered by the statement.

NOTE: Authority cited: Sections 17306, 17310 and 17312, Family Code.
Reference: Sections 17306 and 17401.5, Family Code; 42 United States Code, Section 654; 45 Code of Federal Regulations, Section 302.54; and Barnes v. Anderson et al., First Amended Permanent Injunction and Judgment, NO. CIV S-90-0579, filed December 14, 1998 (United States District Court for the Eastern District of California).

(2) Repeal Manual of Policies and Procedures Section 12-225.3 as follows:

12-225 PROGRAM PERFORMANCE STANDARDS - COLLECTION 12-225
AND DISTRIBUTION

.1 The district attorney shall notify the county welfare department in writing when the district attorney discovers that a direct payment has been retained by a family receiving aid.

.2 The district attorney shall be responsible for distributing collections for all cases in which there is a support order being enforced by the district attorney.

.21 Such distribution shall be completed in accordance with the standards specified in Section 12-108.

~~.3 On or before September 30 of each year, the district attorney shall provide a notice of collections received during the previous state fiscal year.~~

~~.31 The notice shall be sent to all of the following:~~

~~.311 Families currently receiving aid.~~

~~.312 Families which formerly received aid and continue to receive Child Support Enforcement Program services on whose cases an assigned collection was made.~~

~~____.32 The notice shall contain all of the following information:~~

~~.321 The total amount of assigned collections received during the prior fiscal year, or zero if no assigned collections were received.~~

~~.322 The total amount of payments to the family, or zero if no amounts were paid to the family.~~

~~.323 In the case of multiple absent parents, a separate listing of collections from each absent parent, or zero if no collections were received from an absent parent.~~

NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: Sections 11479.5 and 15200.8, Welfare and Institutions Code; and 45 CFR 302.31(a)(3)(i), .32, .37, .51, .52, and .54(a) and (b).

Our records reflect that you ☐ were ☐ were not on CalWORKs for the month. If this information is incorrect, please call your local child support agency at the number listed on page two in the RIGHT TO COMPLAINT RESOLUTION section.

CASE: CP VS NCP

DATE OTHER PARENT PAID	DATE LCSA GOT THE PAYMENT	HOW MUCH MONEY WAS PAID TO THE LCSA	DATE OTHER PARENT PAID	DATE LCSA GOT THE PAYMENT	HOW MUCH MONEY WAS PAID TO THE LCSA
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HOW THE MONEY WAS PAID OUT

Current support paid to you	\$
For current CalWORKs recipients only:	
CalWORKs disregard paid to you*	\$
Other	\$

Past due support paid to you	\$
Other	\$

Amount of support used to repay CalWORKs or Foster Care	\$
Excess support paid to you	\$
Other	\$

1. The collection dated _____ came from a federal income tax refund. Under federal law, tax refund money can only be used to pay past due child support and is applied first to repayment of CalWORKs previously paid to you.
2. There is no order for current support to be paid by the noncustodial parent. When no current support is ordered, no disregard can be paid to you. Support collected on an order for past due support or arrears only cannot be used to pay a disregard.

PLEASE KEEP THIS FORM FOR YOUR RECORDS

HOW TO MAKE A COMPLAINT ABOUT THE MONTHLY STATEMENT OF COLLECTIONS AND DISTRIBUTION

RIGHT TO COMPLAINT RESOLUTION:

If you think a mistake has been made in the money paid to the local child support agency and/or how the money was paid out, the child support program has a complaint resolution process. To start the complaint resolution process, you should call or write to your local child support agency at:

Local Child Support Agency

IMPORTANT: Your request for complaint resolution must be made within 90 days from the date you knew, or should have known, about the mistake made in the money.

The local child support agency has 30 days from the date it receives your complaint to provide you with a written resolution of your complaint, unless the local child support agency determines more information or time is needed to resolve your complaint. The local child support agency will contact you if it needs more information or time to resolve your complaint.

RIGHT TO STATE HEARING:

If the local child support agency does not respond to you within 30 days from receiving your complaint, you have the right to request a state hearing before an Administrative Law Judge.

IMPORTANT: If the local child support agency did not respond to you within 30 days, and you decide to request a state hearing, your request for a state hearing must be made within 90 days after you made your complaint with the local child support agency.

If the local child support agency **does** respond to you within 30 days of making your complaint, and you are not satisfied with the local child support agency's complaint resolution or response, you have the right to request a state hearing before an Administrative Law Judge.

IMPORTANT: If you are not satisfied with the local child support agency's complaint resolution or response, and you decide to request a state hearing, your request for state hearing must be made within 90 days after you received the local child support agency's written response. You will receive instructions on how to file for a state hearing when you file a complaint with the local child support agency.

**THIS NOTICE HAS IMPORTANT INFORMATION ABOUT SUPPORT
THAT HAS BEEN COLLECTED - PLEASE READ IT CAREFULLY**

The Monthly Statement of Collections and Distribution (also referred to as Monthly Statement) tells you about money that was paid to the local child support agency or paid out by the local child support agency during the month. You will not receive a Monthly Statement if no money was paid to the local child support agency and no money was paid out by the local child support agency during the month. If you believe any information on the Monthly Statement is wrong or you have any questions about your case, please see the back of your Monthly Statement about calling your local child support agency.

The following information will help you understand the Monthly Statement.

1. PAYMENTS TO THE LOCAL CHILD SUPPORT AGENCY (LCSA)

- **DATE OTHER PARENT PAID:** This tells you the date in the month that the other parent paid. For all money received by wage assignment, the DATE OTHER PARENT PAID is the date the employer withheld money from the other parent's paycheck.
- **DATE LCSA GOT THE PAYMENT:** This tells you the date in the month that the local child support agency received the money.
- **HOW MUCH MONEY WAS PAID TO THE LCSA:** This is the amount of money that was received by the local child support agency.

2. HOW THE MONEY WAS PAID OUT - CURRENT SUPPORT

- **CURRENT SUPPORT PAID TO YOU:** This is the amount of money sent to you as current support. If you have never been on CalWORKs, or you were not on CalWORKs for the month reported, you must be sent all the money up to the amount set as current support in your last court order.
- **CalWORKs DISREGARD PAID TO YOU:** This is the amount of money sent to you as a disregard. Disregards come from current support only. You are entitled to only the first \$50 of money received for the current month. This \$50 limit applies even if current support is received from more than one other parent or for more than one child. This money is called a disregard because it is not counted against your aid. The disregard payment must be sent to you within two business days from the DATE LCSA GOT THE PAYMENT.

All money received from a federal income tax refund must be applied to past due support only. No disregards or current support are paid from this money.

CONTINUED ON REVERSE

3. HOW THE MONEY WAS PAID OUT - PAST DUE SUPPORT

- **PAST DUE SUPPORT PAID TO YOU:** This is the amount of money being paid to you as past due support owed to you.

4. HOW THE MONEY WAS PAID OUT - CURRENT AND PAST CalWORKs OR PAST FOSTER CARE RECIPIENTS ONLY

- **AMOUNT OF SUPPORT USED TO REPAY CalWORKs OR FOSTER CARE:** This is the amount of money being used to repay cash aid paid to you or Foster Care benefits paid for your child.
- **EXCESS SUPPORT PAID TO YOU:** This is the amount of money that is paid to you after all cash aid or Foster Care (unreimbursed assistance) has been repaid. The total amount of unreimbursed assistance we may recover is limited to the total amount of aid paid to the family or Foster Care paid out. We may recover this amount from child support assigned as a condition of receiving cash aid or Foster Care benefits.

OTHER INFORMATION

- Please keep this Monthly Statement. **PAYMENTS TO THE LOCAL CHILD SUPPORT AGENCY** and **HOW THE MONEY WAS PAID OUT** may not balance because support may be received at the end of one month and paid out at the beginning of the next month. By keeping this Monthly Statement, you can compare it to the next Monthly Statement you get to see how **PAYMENTS TO THE LOCAL CHILD SUPPORT AGENCY** were paid out.
- If you have **new** information about the other parent's income, employment or assets, or change of address information for you or the other parent, please contact the local child support agency.
- Please look at the boxes on the front of your Monthly Statement that tell if you "were" or "were not" on CalWORKs for the month. If this information is incorrect, please call your local child support agency at the number listed.

STATE OF CALIFORNIA

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

See SAM Sections 6600-6680 for Instructions and Code Citations

STD. 399 (Rev. 2-98)

Department Name Child Support Services	Contact Person Tonya Crawford-Comage Gary Fujii-Budget	Telephone Number (916) 464-5224 (916) 464-5177
Descriptive Title From Notice Register or Form 400 Chapter 9 Collection and Distribution of Child Support: Notices, Monthly Statement of Collections and Distribution and Important Information Sheet		Notice File Number

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *(Include calculations and assumptions in the rulemaking file.)*

1. Check the appropriate box(es) below to indicate whether this regulation:

- ☐ a. Impacts businesses and/or employees
 ☐ e. Imposes reporting requirements
- ☐ b. Impacts small businesses
 ☐ f. Imposes prescriptive instead of performance standards
- ☐ c. Impacts jobs or occupations
 ☐ g. Impacts individuals
- ☐ d. Impacts California competitiveness
 ☒ h. None of the above (Explain below. Complete for Fiscal Impact Statement as appropriate).

h. (cont.)

These regulations interpret, implement and make specific existing state and federal law related to monthly statements of collections and distribution and important information and will not result in any increase or decrease in the level of services currently provided, or activities currently performed, by the local child support agencies, nor do they place additional requirements on persons who avail themselves of the services provided under California's Child Support Services Program.

2. Enter the total number of businesses impacted:

Describe the types of businesses (include nonprofits):

Enter the number or percentage of total businesses impacted that are small businesses:

3. Enter the number of businesses that will be created: eliminated:

Explain:

4. Indicate the geographic extent of impacts: ☐ Statewide ☐ Local or regional (list areas)
5. Enter the number of jobs created: ___ or eliminated: ___ Describe the types of jobs or occupations impacted: ___.
6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ Yes ☐ No

B. ESTIMATED COSTS *(Include calculations and assumptions in the rulemaking file).*

1. What are the total statewide costs that businesses and vendors may incur to comply with this regulation over its lifetime? \$
- a. Initial costs for a small business: Annual ongoing costs:
 b. Initial costs for a typical business: Annual ongoing costs:
 c. Initial costs for an individual: Annual ongoing costs:
 d. Describe other economic costs that may occur:
2. If multiple industries are impacted, enter the share of total costs for each industry:
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements (include the dollar amounts to do record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted).
4. Will this regulation directly impact housing costs? ☐ Yes ☐ No If yes, enter the annual dollar cost per housing unit \$_____ and the number of units:_____.
5. Are there comparable Federal regulations? ☐ Yes ☐ No Explain the need for State regulation given the existence or absence of Federal regulations:

C. ESTIMATED BENEFITS *(Include calculations and assumptions in the rulemaking file)*

1. Briefly summarize the benefits that may result from this regulation and who will benefit:
2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority? Explain:
3. What are the total statewide benefits from this regulation over its lifetime?

D. ALTERNATIVES TO THE REGULATION *(Include calculations and assumptions in the rulemaking file).*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not.
2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit:	Cost
Alternative 1:	Benefit:	Cost
Alternative 2:	Benefit:	Cost

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:
4. Rulemaking law requires agencies to consider performance standards as an alternative if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?
☐ Yes ☐ No

Explain:

MAJOR REGULATIONS *(Include calculations and assumptions in the rulemaking file)*

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ Yes ☐ No (If no, skip the rest of this section)
2. Briefly describe each equally as effective alternatives, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1:

Alternative 2:

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: \$ _____	Cost-effectiveness ratio:
Alternative 1: \$ _____	Cost-effectiveness ratio:
Alternative 2: \$ _____	Cost-effectiveness ratio:

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes 1. through 6. and attach calculations and assumptions of fiscal impact for the current year and two subsequent years.)

☐ 1. Additional expenditures of approximately \$0 in the current State Fiscal Year 2001-02 which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

☐ a. is provided in (Item _____ Budget Act of _____) or (Chapter _____, Statutes of _____)

☐ b. will be requested in the _____ Governor's Budget for appropriation in Budget Act of _____.

☐ 2. Additional expenditures of approximately \$_____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

☐ a. implements the Federal mandate contained in _____.

☐ b. implements the court mandate set forth by the
court in the case of _____ vs. _____.

☐ c. implements a mandate of the people of this State expressed in their approval of
Proposition No _____ at the _____ election.

☐ d. is issued only in response to a specific request from the _____ which is/are the
only local entity(s) affected.

☐ e. will be fully financed from the _____ authorized by Section _____ of the
Code.

☐ f. provides for savings to each affected unit of local government which will, at a
minimum, offset any additional costs to each such unit.

☐ 3. Savings of approximately \$_____ annually.

☒ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

☐ 5. No fiscal impact exists because this regulation does not affect any local entity or program.

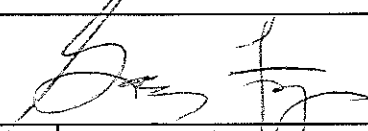
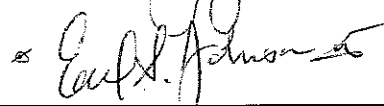

☐ 6. Other:

B. FISCAL EFFECT ON STATE GOVERNMENT *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent fiscal years)*

- ☐ 1. Additional expenditures of approximately \$0 in the current State Fiscal Year 2001-02. It is anticipated that State agencies will:
- ☐ a. be able to absorb these additional costs within their existing budgets and resources
- ☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.
- ☐ 2. Savings of approximately \$_____ in the current State Fiscal Year.
- ☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program.
- ☒ 4. Other. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent years.)*

- ☐ 1. Additional expenditures of approximately \$0 in the current State Fiscal Year 2001-02.
- ☐ 2. Savings of approximately \$_____ in the current State Fiscal Year.
- ☐ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.
- ☒ 4. Other. No additional costs or savings because this regulation makes only technical, nonsubstantive or clarifying changes to current law and regulations.

SIGNATURE  3/28/02		TITLE Chief, Financial Planning Section
AGENCY SECRETARY ¹ APPROVAL/CONCURRENCE 		DATE 3/5-1-02
DEPARTMENT OF FINANCE ² APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER 	DATE

Note:

These regulations will require minor revisions to the monthly statements of collections and distribution and important information notices, and require minor modification to the interim automated system. No additional funding is needed for the modifications. The cost will be absorbed within the existing funds for FY 2001-02 EDP Maintenance & Operations (M&O) basic cost.

1. The signature attests that the agency has completed the STD 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.
2. Finance approval and signature is required when SAM sections 6050-6057 require completion of the Fiscal Impact Statement in the STD 399. However, Finance must immediately receive a copy of each STD 399 submitted to OAL without Finance signature and Finance may subsequently question the "no fiscal impact" finding of a state agency.